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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA – CLARK COUNTY**

10 ADVENTUREMOBILE INC.,

11 Plaintiff,

12 v.

13 RLD DESIGN LTD, a South African
 14 Company; and DOES 1-25, Inclusive,

15 Defendants.

16 **CASE NO. 2:22-cv-01315-RFB-BNW**

17 *Hon. Brenda Weksler*
United States Magistrate Judge

18 **PLAINTIFF ADVENTUREMOBILE
 19 INC.’S MOTION TO FURTHER
 20 EXTEND DEADLINE TO FILE PROOF
 21 OF SERVICE ON DEFENDANT RLD
 22 DESIGN LTD**

23 **NO HEARING REQUESTED**

24 **Complaint Filed: August 17, 2022**

25 Plaintiff ADVENTUREMOBILE INC. (“Plaintiff”), by and through its counsel of record,
 26 Stephen J. Erigero of Ropers Majeski PC, hereby submits this Motion to Further Extend Deadline
 27 to File Proof of Service on Defendant RLD Design Ltd. The Motion is based on the
 28 Memorandum of Points and Authorities, the Declaration of Stephen J. Erigero, the pleadings on
 file with the Court, and any oral argument offered at any hearing that this Court requests.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff hereby requests the Court to grant it a further extension of the deadline to effectuate service on defendant RLD Design Ltd. (“Defendant”) or (“RLD”) and file proof of service with the Court. Plaintiff has not yet been able to effectuate service of the Summons and Complaint on Defendant. The current deadline for filing of the Proof of Service is September 15, 2023 which was set by this Court at the request of Plaintiff. ECF Nos. 12-13.

Defendant RLD Design, Ltd. is a South African Company. South Africa is not a signatory to the Hague Convention for service of summons and complaint. Consequently, Plaintiff's only alternative was to request that this Court issue Letters Rogatory so that Adventuremobile could proceed through diplomatic channels to effectuate service of summons and complaint on Defendant. This Court issued Letters Rogatory on November 15, 2022. ECF No. 11.

Upon inquiring as to the status of service of process on Defendant, Adventuremobile's process server (Adesso Process Service) advised that it has not yet been able to effectuate service and it may be required to have the entire package resubmitted for service through Letters Rogatory. Accordingly, Adventuremobile respectfully requests that the Court grant its request to extend the deadline for filing of the Proof of Service for six (6) to nine (9) months from the current deadline of September 15, 2023 to allow Plaintiff to effectuate service. Additionally and/or in the alternative, Plaintiff requests that this Court issue an order to the State Department regarding the status of service of process on RLD.

II.
**STATUS OF SERVICE AND ADDITIONAL TIME NECESSARY TO EFFECTUATE
SERVICE**

Defendant RLD Design, Ltd. is a South African Company. The Republic of South Africa is not a signatory to the Hague Convention for service of summons and complaint and therefore the only way to serve RLD is to proceed through Letters Rogatory, *i.e.*, through diplomatic channels involving the United States State Department and its counterpart in the Republic of South Africa.

1 Letters rogatory are notorious for being slow and tedious. According to the United States
2 Department of Justice archives on letters rogatory, “Prosecutors should assume that the process
3 will take a year or more. Letters rogatory are customarily transmitted via the diplomatic channel,
4 a time-consuming means of transmission.”

5 The process server retained in this matter is Francesco Pecoraro of Adesso Process
6 Service. Mr. Pecoraro has advised that it will take a total of 18-21 months to effectuate service of
7 summons and complaint on a defendant in South Africa.

8 When asked about the status of service, Mr. Pecoraro advised that the entire process of
9 service through Letters Rogatory is opaque as the United States State Department does not
10 provide a status of progress on Letters Rogatory. Therefore, it is unclear whether or when the
11 State Department issues a request for service to its counterpart in the Republic of South Africa.

12 ***Only this Court has the power to issue an order to the State Department to provide a status of
13 service through Letters Rogatory.***

14 Plaintiff has been diligent in its efforts on effectuating service of process on RLD. After
15 filing of the Complaint, Plaintiff’s counsel contacted Defendant’s counsel to find out if
16 Defendant’s counsel in South Africa would accept service on behalf of Defendant. Defendant’s
17 counsel responded that they were not authorized to accept service. (Erigero Decl., ¶ 4.)

18 Plaintiff’s counsel then engaged in researching of how best to effectuate service of process
19 on Defendant. Plaintiff’s counsel’s research revealed that the Republic of South Africa is not a
20 signatory to the Hague Convention for service of process. Therefore, Letters Rogatory appeared
21 to be the best method for service on Defendant. (Erigero Decl., ¶ 5.)

22 The Court issued the Letters Rogatory on or about November 15, 2022. ECF No. 11.

23 The process server retained in this matter is Francesco Pecoraro of Adesso Process
24 Service. On or about August 18, 2022, Plaintiff paid \$4,327 to Adesso Process Service to
25 effectuate service (through Letters Rogatory) of summon and complaint on RLD. (Erigero
26 Decl., ¶ 7, Ex. “A”.)

1 Plaintiff has been frequently inquiring about the status of service in the past few months.
 2 For example, on August 28, 2023, Plaintiff's counsel asked Mr. Pecoraro about the status of
 3 service on RLD. He advised that the service has not yet been effectuated and there was no further
 4 update. (Erigeron Decl., ¶ 8, Ex. "B".)

5 Mr. Pecoraro also advised that a follow up may require a complete re-submittal of the
 6 package (service through Letters Rogatory), with a letter indicating it was sent once before with a
 7 request that service be expedited. (Erigeron Decl., ¶ 9, Ex. "C".)

8 Mr. Pecoraro also provided a fee proposal for re-submittal of the package for \$2,522.10.
 9 (Erigeron Decl., ¶ 10, Ex. "D".)

10 As of the date of filing this motion, Adesso Process Service ("Adesso") has not yet been
 11 able to effectuate service.

12 Plaintiff anticipates it will take between six to nine months from the current deadline of
 13 September 15, 2023 to complete service on a South African corporation and then file the proof of
 14 service with the Court. Accordingly, Plaintiff asks that this Court grants its request for extension
 15 of deadline for six to nine months from the current deadline of September 15, 2023.

16 In addition to retaining Ropers Majeski, Plaintiff also retained counsel in the Republic of
 17 South Africa, a firm by the name of C & A Friedlander, in order to consult regarding having a
 18 defendant that is a South African company in a lawsuit initiated in Nevada federal court and
 19 whether a judgment obtained in Nevada federal court can be enforced in the Republic of South
 20 Africa. Plaintiff was advised that in order to be able to enforce such a judgment, defendant RLD
 21 had to be served ***officially, which in this case means via Letters Rogatory since the Republic of***
South Africa is not a signatory to the Hague Convention. (Erigeron Decl., ¶ 11.)

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1 Plaintiff has expanded considerable attorney's fees and costs (in excess of \$40,000), in
 2 addition to paying upfront the amount of \$4,327 to Adesso. Plaintiff has no remedy or recourse
 3 but to pursue Defendant in this Court pursuant to the Exclusive Distribution Agreement. Further,
 4 in order for Plaintiff to be able to obtain a judgment that will be enforceable in the Republic of
 5 South Africa, Plaintiff has to serve Defendant officially, *i.e.*, through Letters Rogatory. However,
 6 this type of service is very opaque and it cannot be easily ascertained in what stage the service of
 7 process is.

8 **III.**
 9 **CONCLUSION**

10 Based on the foregoing, Plaintiff respectfully requests that the Court extend the deadline
 11 for filing of the Proof of Service for six to nine months the current deadline of September 15,
 12 2023 (*i.e.*, through June 15, 2024). In addition and/or in the alternative, Plaintiff requests that this
 13 Court issue an order to the State Department to provide the status of service through Letters
 14 Rogatory.

15 Dated: September 5, 2023

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 17 Having read and considered Plaintiff's Motion to
 18 Extend Time to Serve the Summons and
 19 Complaint, and good cause being found
 20 pursuant to Federal Rule of Civil Procedure 4
 21 and 6, the Court GRANTS the motion. The
 22 deadline for filing proof of service of the
 23 summons and complaint is extended to June 15,
 24 2024.

25 **IT IS SO ORDERED**

26 **DATED:** 9:30 pm, September 10, 2023

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BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE